

\*\*E-filed on 3/5/09\*\*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

REGINALD BURGESS,

Plaintiff,

v.

JASON FORBES, et al.

Defendants.

Case Number C 09-629 JF (HRL)

ORDER<sup>1</sup> RE PLAINTIFF'S EX  
PARTE APPLICATION FOR LEAVE  
TO FILE MOTION FOR  
RECONSIDERATION

[re: document no. 18]

This Court has denied Plaintiff's applications for temporary restraining order ("TRO") and leave to proceed *in forma pauperis* on the ground that, among other problems with Plaintiff's complaint, he has failed to demonstrate the existence of subject matter jurisdiction. The Court has set a hearing on April 10, 2009 for Plaintiff to show cause why the case should not be dismissed for failure to pay the filing fee.

On March 2, 2009, Plaintiff filed an ex parte application for leave to file a motion for reconsideration of the Court's rulings with respect to his applications for TRO and to proceed *in forma pauperis*. On the same date, Defendants eBay, Inc. and PayPal, Inc. filed a motion to dismiss the complaint on several grounds, including that this Court lacks subject matter

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<sup>1</sup> This disposition is not designated for publication and may not be cited.

1 jurisdiction over the complaint. That motion is set for hearing on April 17, 2009.

2 For reasons of judicial economy, the Court will consider Plaintiff's arguments regarding  
3 the propriety of subject matter jurisdiction in the context of Defendants' motion to dismiss. The  
4 Court therefore will deny Plaintiff's motion for leave to file a separate motion for  
5 reconsideration, but directs Plaintiff to present all his arguments on the issue of subject matter  
6 jurisdiction in opposition to Defendants' motion to dismiss. The Court will continue the April  
7 10 show cause hearing to April 17, to be heard with Defendants' motion to dismiss.

8 **ORDER**

9 (1) Plaintiff's motion for leave to file a motion for reconsideration is DENIED, and  
10 Plaintiff instead is directed to present his arguments regarding subject matter  
11 jurisdiction in an opposition to Defendants' motion to dismiss, as discussed  
12 above.

13 (2) The show cause hearing set for April 10, 2009 is CONTINUED to April 17, 2009  
14 at 9:00, to be heard with Defendants' motion to dismiss.

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17 DATED: 3/5/09

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19 JEREMY FOCHEL  
20 United States District Judge  
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1 This Order was served upon the following persons:

2  
3 Plaintiff *pro se*:

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